

ASSEMBLY BILL

No. 2173

Introduced by Assembly Member Skinner

February 23, 2012

An act to amend Sections 8501, 8502, 8503, 8504, 8506, 8509, 8511, 8512, 8513, and 8514 of, to repeal Sections 8517, 8518, 8519, 8520, 8521, 8522, 8523, 8524, 8525, and 8526 of, and to repeal and add Sections 8515 and 8516 of, the Revenue and Taxation Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2173, as introduced, Skinner. Metropolitan Transportation Commission: regional gasoline tax.

Existing law creates the Metropolitan Transportation Commission with specified powers and duties relative to transportation planning and programing for the 9-county Bay Area region comprising the commission's jurisdiction. Existing law authorizes the commission to impose a regional tax on gasoline used by motor vehicles not to exceed \$0.10 per gallon for up to 20 years within the region, subject to $\frac{2}{3}$ voter approval.

This bill would modify these provisions by providing for the commission to submit the proposed ballot measure to voters of one or more counties within the 9-county region rather than to all counties. The bill would delete the requirement for an independent audit of the State Board of Equalization relative to reimbursement of the board for its actual administrative costs associated with the regional gasoline tax, and would make various other changes.

Existing law authorizes the commission to issue limited tax bonds secured by the regional gasoline tax revenues under certain conditions.

This bill would repeal certain of these provisions and enact new provisions authorizing the commission to issue bonds secured by all or a portion of the net regional gasoline tax revenues. The bill would provide that interest earned on any of these bonds is free from state personal income tax and corporate income tax. The bill would authorize the commission to pledge net revenues to secure any repayment or reimbursement obligations of the commission to any provider of insurance or a guarantee of liquidity or credit facility entered into to provide for the repayment of the bonds, and would authorize the commission to employ and compensate bond counsel, financial consultants, and other advisers in connection with these bonds.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 8501 of the Revenue and Taxation Code
2 is amended to read:
3 8501. As used in this chapter, the following definitions have
4 the following meanings:
5 (a) “Commission” means the Metropolitan Transportation
6 Commission created by Title 7.1 (commencing with Section 66500)
7 of the Government Code.
8 (b) “County” means county or city and county.
9 ~~(b)~~
10 (c) “Region” means the region comprising the commission’s
11 jurisdiction, prescribed by Section 66502 of the Government Code.
12 ~~(e)~~
13 (d) “Bonds” means indebtedness and securities of any kind or
14 class, including bonds, notes, bond anticipation notes, and
15 commercial paper.
16 SEC. 2. Section 8502 of the Revenue and Taxation Code is
17 amended to read:
18 8502. The commission may impose, in addition to any other
19 tax authorized by this division, a tax on the privilege of selling
20 within *one or more counties in* the region, motor vehicle fuel, as
21 defined by Section 7326. The tax shall not apply to motor vehicle
22 fuel used to power aircraft. The tax shall be levied at a rate
23 established by the commission *that may vary from year to year*,
24 but ~~may not exceeding ten~~ *exceed 10 cents (\$0.10) per gallon.*

1 Commencing on January 1 of the year following the election
2 approving the tax, the tax may be imposed for a period not to
3 exceed 20 years.

4 SEC. 3. Section 8503 of the Revenue and Taxation Code is
5 amended to read:

6 8503. (a) Prior to imposing the tax, the commission shall adopt
7 a ~~regional~~ transportation expenditure plan for the revenues derived
8 from the tax. The ~~regional transportation~~ expenditure plan shall
9 describe specific proposed transportation projects *or programs*
10 and the estimated cost of each project *or program*.

11 (b) The ~~regional transportation~~ expenditure plan shall also meet
12 the following minimum objectives and criteria:

13 (1) Project expenditures shall reflect an equitable distribution
14 of revenues throughout the ~~region~~ *counties in which the tax is*
15 *imposed* with not less than 95 percent of revenues from each
16 county, based on population, being invested over the 20-year life
17 of the tax in projects attributable to that county. In addition, during
18 every five-year period, no less than 80 percent of the revenues
19 from each county, based on population, invested during that period
20 shall be invested in projects attributable to that county. The
21 commission shall allocate any accrued interest according to the
22 same formula. At the time of the development of the expenditure
23 plan, the commission shall use population data from the most
24 recent United States census, and shall take into account estimated
25 increases in population over ~~the 20-year~~ *a 25-year* period projected
26 by the Association of Bay Area Governments.

27 (2) Projects included in the expenditure plan shall be consistent
28 with the commission's regional transportation plan, a congestion
29 management program, or a countywide transportation plan. The
30 commission shall, in prioritizing projects in the expenditure plan,
31 give additional consideration to projects where local land use
32 policies reduce dependence on single-occupant motor vehicle
33 travel. The expenditure plan development process shall include
34 consultation with cities, counties, transit operators, congestion
35 management agencies, and other interested groups.

36 (3) Cost estimates for each project shall be prepared by the
37 commission, in consultation with project sponsors, and verified
38 by an independent cost-estimating firm retained by the commission
39 for that purpose. Estimates of other funding required to complete
40 any project shall be based on an estimate of funds reasonably

1 expected to be available during the 20-year period commencing
2 with the year that the tax is initially imposed.

3 (4) To be eligible for inclusion in the expenditure plan, a project
4 shall meet at least one of the following regional transportation
5 needs:

6 (A) Fund maintenance and rehabilitation of local streets and
7 roads, sidewalks, or bicycle routes, or close a gap in the local street
8 and road system.

9 (B) Fund capital or operating expenses of public transit systems.

10 (C) Fund transit expansion projects in the commission's
11 ~~Resolution 3434~~, Regional Transit Expansion Program as contained
12 in the commission's regional transportation plan.

13 (D) Provide an alternative to single occupancy automobile travel,
14 *including traveler information programs and other programs that*
15 *encourage alternatives to single-occupancy automobile travel.*

16 (E) Improve safety on specific roadway segments where accident
17 or fatality rates exceed the expected rate for those segments over
18 a multiyear timeframe, including, but not limited to, expansion or
19 realignment of the roadway.

20 (F) Improve the operational efficiency of the existing roadway
21 system without a physical expansion of the system. However,
22 expansion projects to reconfigure existing interchanges are eligible
23 for inclusion in the plan.

24 (G) Fund implementation of the requirements of the federal
25 Americans with Disabilities Act of 1990 (P.L. 101-336), or those
26 requirements as revised, on public transit systems and other
27 transportation-related facilities.

28 (H) Fund seismic retrofitting of transportation facilities.

29 (I) Fund intermodal freight or passenger facilities.

30 (J) Fund transportation enhancement activities, including
31 projects consistent with the commission's Transportation for
32 Livable Communities (TLC) Program ~~and the Housing Incentive~~
33 ~~Program (HIP).~~

34 (K) Defray interest costs and other expenses associated with
35 the issuance of revenue bonds or revenue anticipation notes.

36 (5) If not otherwise available, sufficient funding shall be
37 included in the cost estimates and expenditure plan presented to
38 the voters to operate and maintain each included project for the
39 duration of the tax.

1 SEC. 4. Section 8504 of the Revenue and Taxation Code is
2 amended to read:

3 8504. (a) Following the adoption by the commission of a
4 ~~regional transportation~~ *an* expenditure plan, the board of
5 supervisors of each county ~~and city and county~~ in the region
6 *designated by the commission* shall, upon the request of the
7 commission, submit to the voters at a local election consolidated
8 with a statewide primary or general election specified by the
9 commission, a measure, adopted by the commission, authorizing
10 the commission to impose the tax ~~throughout the region~~.

11 (b) The measure may not be grouped with state or local measures
12 on the ballot, but shall be set forth in a separate category and shall
13 be identified as ~~Regional Measure 2~~, *worded, and described in the*
14 *manner determined by the commission*.

15 (c) ~~Regardless of the system of voting used, the wording of the~~
16 ~~measure shall read as follows:~~

17 ~~"Shall The Metropolitan Transportation Commission be~~
18 ~~authorized to impose a tax of _____ per gallon on the sale of~~
19 ~~gasoline to build and operate transportation projects identified in~~
20 ~~the expenditure plan adopted by the commission?"~~

21 (d)

22 (c) The commission shall reimburse each county ~~and city and~~
23 ~~county in the region~~ for the cost of submitting the measure to the
24 voters. These costs shall be reimbursed from revenues derived
25 from the tax if the measure is approved by the voters or, if the
26 measure is not approved, from any funds of the commission that
27 are available for general transportation planning.

28 (e)

29 (d) The board of supervisors of a county ~~or city and county~~ may
30 elect not to submit the measure adopted by the commission to the
31 voters if it submits an alternative countywide transportation funding
32 measure to the voters at the same election.

33 SEC. 5. Section 8506 of the Revenue and Taxation Code is
34 amended to read:

35 8506. The commission shall contract with the State Board of
36 Equalization for the administration of any tax imposed under this
37 chapter, and the board shall be reimbursed for its actual cost in the
38 administration of the tax and for its actual cost of preparation to
39 administer the tax ~~based upon an independent audit~~.

SEC. 6. Section 8509 of the Revenue and Taxation Code is amended to read:

8509. The net revenues received by the commission shall be expended only in accordance with *this chapter and the regional transportation expenditure plan* adopted pursuant to Section 8503, except that the commission may deduct from those revenues funds to reimburse it for expenses incurred in the initial implementation of this chapter, and thereafter, its cost of administration, not to exceed 1 percent of annual net revenues.

SEC. 7. Section 8511 of the Revenue and Taxation Code is amended to read:

8511. The commission's ~~regional transportation~~ expenditure plan shall include a process of ensuring periodic public review of the progress of the ~~regional transportation~~ expenditure plan and citizen oversight.

SEC. 8. Section 8512 of the Revenue and Taxation Code is amended to read:

8512. The commission may, by a two-thirds vote, amend the ~~regional transportation~~ expenditure plan after a minimum of two public hearings in accordance with Section 8511. Any amendment shall comply with all of the requirements for the plan prescribed by this chapter.

SEC. 9. Section 8513 of the Revenue and Taxation Code is amended to read:

8513. (a) ~~If requested to do so by the commission in its resolution calling for an election, the board of supervisors, as part of the ballot proposition to approve the imposition of the tax, shall~~ *The ballot measure adopted by the commission may include* authorization for the commission to issue bonds for capital outlay expenditures as may be provided for in the ordinance expenditure plan payable from the proceeds of *net revenues from* the tax.

~~(b) The maximum bonded indebtedness that may be outstanding at any one time shall be an amount equal to the sum of the principal of, and interest on, the bonds, but not to exceed the estimated proceeds of the tax, as determined by the plan. The amount of bonds outstanding at any one time does not include the amount of bonds, refunding bonds, or bond anticipation notes for which funds necessary for the payment thereof have been set aside for that purpose in a trust or escrow account.~~

~~(c) The proposition shall set forth each of the following:~~

- 1 ~~(1) The actual percent of the tax.~~
2 ~~(2) The duration of the tax if the plan specifies a time limit.~~
3 ~~(3) The amount of bonds, if any, payable from the proceeds of~~
4 ~~the tax.~~
5 ~~(4) The commission as the agency imposing the tax.~~
6 ~~(5) The appropriations limit of the commission, pursuant to~~
7 ~~Section 4 of Article XIII B of the California Constitution.~~

8 ~~(d)~~

9 ~~(b) The sample ballot to be mailed to the voters, pursuant to~~
10 ~~Section 13303 of the Elections Code, shall be the full proposition,~~
11 ~~as set forth in the ordinance *or resolution* calling the election, and~~
12 ~~the voter information handbook shall include the entire ordinance~~
13 ~~expenditure plan.~~

14 SEC. 10. Section 8514 of the Revenue and Taxation Code is
15 amended to read:

16 8514. ~~(a) The bonds authorized by the voters concurrently~~
17 ~~with the approval of the tax may be issued at any time *or from*~~
18 ~~*time to time* by the commission and shall be payable from the~~
19 ~~proceeds of net revenues from the tax. The bonds shall be referred~~
20 ~~to as “limited tax bonds.”~~

21 The bonds may be secured by a pledge of *all or any portion of*
22 ~~the net revenues from the proceeds of the tax. The bonds may be~~
23 ~~sold at public or private sale in the form and on such terms and~~
24 ~~conditions as the commission shall approve. The commission may~~
25 ~~pledge all or any part of the net revenues from the tax to secure~~
26 ~~any repayment or reimbursement obligations of the commission~~
27 ~~to any provider of insurance or a guarantee of liquidity or credit~~
28 ~~facility entered into to provide for the repayment of the bonds. The~~
29 ~~commission may employ and compensate bond counsel, financial~~
30 ~~consultants, and other advisers determined necessary by the~~
31 ~~commission in connection with the issuance and sale of the bonds.~~
32 ~~The commission may issue bonds to refund or purchase or~~
33 ~~otherwise acquire bonds on terms and conditions as the~~
34 ~~commission may approve.~~

35 ~~(b) The pledge of the tax to the limited tax bonds authorized~~
36 ~~under this chapter shall have priority over the use of any of the tax~~
37 ~~for “pay-as-you-go” financing, except to the extent that this priority~~
38 ~~is expressly restricted in the resolution authorizing the issuance of~~
39 ~~the bonds.~~

1 SEC. 11. Section 8515 of the Revenue and Taxation Code is
2 repealed.

3 ~~8515. Limited tax bonds shall be issued pursuant to a resolution~~
4 ~~adopted at any time by a two-thirds vote of the commission. Each~~
5 ~~resolution shall provide for the issuance of bonds in the amounts~~
6 ~~as may be necessary, until the full amount of bonds authorized~~
7 ~~have been issued. The full amount of bonds may be divided into~~
8 ~~two or more series and different dates of payment fixed for the~~
9 ~~bonds of each series. A bond need not mature on its anniversary~~
10 ~~date.~~

11 SEC. 12. Section 8515 is added to the Revenue and Taxation
12 Code, to read:

13 8515. Interest earned on any bonds issued by the commission
14 shall at all times be free from state personal income tax and
15 corporate income tax.

16 SEC. 13. Section 8516 of the Revenue and Taxation Code is
17 repealed.

18 ~~8516. (a) A resolution authorizing the issuance of bonds shall~~
19 ~~state all of the following:~~

20 ~~(1) The purposes for which the proposed debt is to be incurred,~~
21 ~~which may include all costs and estimated costs incidental to, or~~
22 ~~connected with, the accomplishment of those purposes, including,~~
23 ~~without limitation, engineering, inspection, legal, fiscal agent,~~
24 ~~financial consultant and other fees, bond and other reserve funds,~~
25 ~~working capital, bond interest estimated to accrue during the~~
26 ~~construction period and for a period not to exceed three years~~
27 ~~thereafter, and expenses of all proceedings for the authorization,~~
28 ~~issuance, and sale of the bonds.~~

29 ~~(2) The estimated cost of accomplishing those purposes.~~

30 ~~(3) The amount of the principal of the indebtedness.~~

31 ~~(4) The maximum term the bonds proposed to be issued shall~~
32 ~~run before maturity, which shall not be beyond the date of~~
33 ~~termination of the imposition of the tax.~~

34 ~~(5) The maximum rate of interest to be paid, which shall not~~
35 ~~exceed the maximum allowable by law.~~

36 ~~(6) The denomination or denominations of the bonds, which~~
37 ~~shall not be less than five thousand dollars (\$5,000).~~

38 ~~(7) The form of the bonds, including, without limitation,~~
39 ~~registered bonds and coupon bonds, to the extent permitted by~~
40 ~~federal law, and the form of any coupons to be attached thereto,~~

1 ~~the registration, conversion, and exchange privileges, if any,~~
2 ~~pertaining thereto, and the time when all of, or any part of, the~~
3 ~~principal becomes due and payable.~~

4 ~~(b) The resolution may also contain any other matters authorized~~
5 ~~by this chapter or any other law.~~

6 SEC. 14. Section 8516 is added to the Revenue and Taxation
7 Code, to read:

8 8516. The state hereby pledges to and agrees with the holders
9 of bonds issued by the commission that the state will not limit,
10 alter, or restrict the rights hereby vested in the commission to fulfill
11 each pledge of revenues and any other terms of any agreement
12 made with or for the benefit of the holders of bonds or in any way
13 impair the rights or remedies of the holders of bonds.

14 SEC. 15. Section 8517 of the Revenue and Taxation Code is
15 repealed.

16 ~~8517. The bonds shall bear interest at a rate or rates not~~
17 ~~exceeding the maximum allowable by law, payable at intervals~~
18 ~~determined by the commission, except that the first interest payable~~
19 ~~on the bonds, or any series thereof, may be for any period not~~
20 ~~exceeding one year, as determined by the commission.~~

21 SEC. 16. Section 8518 of the Revenue and Taxation Code is
22 repealed.

23 ~~8518. In the resolution authorizing the issuance of the bonds,~~
24 ~~the commission may also provide for the call and redemption of~~
25 ~~the bonds prior to maturity at the times and prices and upon other~~
26 ~~terms as specified. However, no bond is subject to call or~~
27 ~~redemption prior to maturity, unless it contains a recital to that~~
28 ~~effect or unless a statement to that effect is printed.~~

29 SEC. 17. Section 8519 of the Revenue and Taxation Code is
30 repealed.

31 ~~8519. The principal of, and interest on, the bonds shall be~~
32 ~~payable in lawful money of the United States at the office of the~~
33 ~~treasurer of the commission, or at other places as may be~~
34 ~~designated, or at both the office and other places at the option of~~
35 ~~the holders of the bonds.~~

36 SEC. 18. Section 8520 of the Revenue and Taxation Code is
37 repealed.

38 ~~8520. The bonds, or each series thereof, shall be dated and~~
39 ~~numbered consecutively and shall be signed by the chairperson or~~
40 ~~vice chairperson of the commission and the auditor-controller of~~

1 the commission, and the official seal, if any, of the commission
2 shall be attached.

3 The interest coupons of the bonds shall be signed by the
4 auditor-controller of the commission. All of the signatures and
5 seal may be printed, lithographed, or mechanically reproduced.

6 If any officer whose signature appears on the bonds or coupons
7 ceases to be that officer before the delivery of the bonds, the
8 officer's signature is as effective as if the officer had remained in
9 office.

10 SEC. 19. Section 8521 of the Revenue and Taxation Code is
11 repealed.

12 8521. The bonds may be sold as the commission determines
13 by resolution, and the bonds may be sold at a price below par,
14 whether by negotiated or public sale.

15 SEC. 20. Section 8522 of the Revenue and Taxation Code is
16 repealed.

17 8522. Delivery of any bonds may be made at any place either
18 inside or outside the state, and the purchase price may be received
19 in cash or bank credits.

20 SEC. 21. Section 8523 of the Revenue and Taxation Code is
21 repealed.

22 8523. All accrued interest and premiums received on the sale
23 of the bonds shall be placed in the fund to be used for the payment
24 of the principal of, and interest on, the bonds, and the remainder
25 of the proceeds of the bonds shall be placed in the treasury of the
26 commission and applied to secure the bonds or for the purposes
27 for which the debt was incurred. However, when the purposes have
28 been accomplished, any money remaining shall be either (a)
29 transferred to the fund to be used for the payment of principal of,
30 and interest on, the bonds or (b) placed in a fund to be used for the
31 purchase of the outstanding bonds in the open market at prices and
32 in the manner, either at public or private sale or otherwise, as
33 determined by the commission. Bonds so purchased shall be
34 canceled immediately.

35 SEC. 22. Section 8524 of the Revenue and Taxation Code is
36 repealed.

37 8524. (a) The commission may provide for the issuance, sale,
38 or exchange of refunding bonds to redeem or retire any bonds
39 issued by the commission upon the terms, at the times, and in the
40 manner which it determines.

1 ~~(b) Refunding bonds may be issued in a principal amount~~
2 ~~sufficient to pay all, or any part of, the principal of the outstanding~~
3 ~~bonds, the premiums, if any, due upon call and redemption thereof~~
4 ~~prior to maturity, all expenses of the refunding, and either of the~~
5 ~~following:~~

6 ~~(1) The interest upon the refunding bonds from the date of sale~~
7 ~~thereof to the date of payment of the bonds to be refunded out of~~
8 ~~the proceeds of the sale of the refunding bonds or to the date upon~~
9 ~~which the bonds to be refunded will be paid pursuant to call or~~
10 ~~agreement with the holders of the bonds.~~

11 ~~(2) The interest upon the bonds to be refunded from the date of~~
12 ~~sale of the refunding bonds to the date of payment of the bonds to~~
13 ~~be refunded or to the date upon which the bonds to be refunded~~
14 ~~will be paid pursuant to call or agreement with the holder of the~~
15 ~~bonds.~~

16 ~~(c) The provisions of this chapter for the issuance and sale of~~
17 ~~bonds apply to the issuance and sale of refunding bonds.~~

18 ~~SEC. 23. Section 8525 of the Revenue and Taxation Code is~~
19 ~~repealed.~~

20 ~~8525. (a) The commission may borrow money in anticipation~~
21 ~~of the sale of bonds which have been authorized pursuant to this~~
22 ~~chapter, but which have not been sold or delivered, and may issue~~
23 ~~negotiable bond anticipation notes therefor and may renew the~~
24 ~~bond anticipation notes from time to time. However, the maximum~~
25 ~~maturity of any bond anticipation notes, including the renewals~~
26 ~~thereof, shall not exceed five years from the date of delivery of~~
27 ~~the original bond anticipation notes.~~

28 ~~(b) The bond anticipation notes, and the interest thereon, may~~
29 ~~be paid from any money of the commission available therefor,~~
30 ~~including the revenues from the tax. If not previously otherwise~~
31 ~~paid, the bond anticipation notes, or any portion thereof, or the~~
32 ~~interest thereon, shall be paid from the proceeds of the next sale~~
33 ~~of the bonds of the commission in anticipation of which the notes~~
34 ~~were issued.~~

35 ~~(c) The bond anticipation notes shall not be issued in any amount~~
36 ~~in excess of the aggregate amount of the bonds which the~~
37 ~~commission has been authorized to issue, less the amount of any~~
38 ~~bonds of the authorized issue previously sold, and also less the~~
39 ~~amount of other bond anticipation notes therefor issued and then~~

1 outstanding. The bond anticipation notes shall be issued and sold
2 in the same manner as the bonds.

3 ~~(d) The bond anticipation notes and the resolutions authorizing~~
4 ~~them may contain any provisions, conditions, or limitations which~~
5 ~~a resolution of the commission may contain.~~

6 SEC. 24. Section 8526 of the Revenue and Taxation Code is
7 repealed.

8 ~~8526. Any bonds issued under this chapter are legal investment~~
9 ~~for all trust funds; for the funds of insurance companies;~~
10 ~~commercial and savings banks, and trust companies; and for state~~
11 ~~school funds; and whenever any money or funds may, by any law~~
12 ~~now or hereafter enacted, be invested in bonds of cities, counties,~~
13 ~~school districts, or other districts within the state, that money or~~
14 ~~those funds may be invested in the bonds issued under this chapter,~~
15 ~~and whenever bonds of cities, counties, school districts, or other~~
16 ~~districts within the state may, by any law now or hereafter enacted,~~
17 ~~be used as security for the performance of any act or the deposit~~
18 ~~of any public money, the bonds issued under this chapter may be~~
19 ~~so used. The provisions of this chapter are in addition to all other~~
20 ~~laws relating to legal investments and shall be controlling as the~~
21 ~~latest expression of the Legislature with respect thereto.~~